

BEFORE THE STATE BOARD OF EQUALIZATION
ASSESSMENT APPEALS COMMISSION

Appeal of:

BOBBY G. RUNYAN)	
Dist. 2, Map 69, Control Map 69, Parcel 18.03)	Hamilton
Residential Property - Rollback Assessment)	County
Tax Year 2005)	

FINAL DECISION AND ORDER

Statement of the case

This is an appeal by the taxpayer from the initial decision and order of the administrative judge who determined that greenbelt rollback taxes were properly imposed upon the taxpayer pursuant to Tennessee Code Annotated § 67-5-1001 *et seq.* The appeal was heard in Knoxville on June 27, 2007, before Commission members Stokes (presiding), Ledbetter, and Gilliam.¹ John C. Cavett, Jr., Esq., represented the taxpayer. The assessor was represented by staff members Roy Rumfelt and Alan Johnson.

Findings of fact and conclusions of law

The subject property is an 80 acre tract located at 10261 Highway 58 in Ooltewah, Tennessee. In 1992, former property owner Effie Ruth Lovell filed a greenbelt application for the subject property, which was approved by the assessor of property. On June 5, 2001, Ms. Lovell conveyed the property by warranty deed in fee simple to a group of four relatives, but she retained a life estate. The subject property continued to enjoy preferential assessment, even after Effie Ruth Lovell died on April 22, 2002 and her life estate was extinguished. No greenbelt application was filed by the four relatives.

On August 23, 2004, while the property continued to enjoy preferential assessment, Mr. Runyan purchased the property from the four relatives. After Mr. Runyan's purchase of the property, he was notified by the assessor's office that he could submit a greenbelt application. Mr. Runyan submitted a greenbelt application on November 11, 2004, which was approved by the assessor. On April 8, 2005, Mr. Runyan sold the subject property to Runser Development. In June of 2005, Mr. Runyan received a bill for rollback taxes in the amount of \$13,248.77, reflective of the tax savings enjoyed for three years under the greenbelt law.

The taxpayer argued that when the life estate retained by Ms. Lovell was extinguished, the four relatives should have been required to submit an application pursuant to Tennessee Code Annotated § 67-5-1005(a)(1). The taxpayer argued that because no such application was filed, the greenbelt status of the subject property should have been extinguished. The taxpayer

¹ Mr. Gilliam sat as a designated alternate for an absent member, pursuant to Tenn. Code Ann. §4-5-302.

conceded that the sale of the property to Runser Development triggered rollback taxes and that the taxpayer should have to pay a portion of the rollback taxes attributable to the tax savings he enjoyed. However, the taxpayer argued that he should not be required to pay for any rollback taxes attributable to benefits received by the prior owners of the property. Further, the taxpayer suggested that there was insufficient notice regarding whether the property was enjoying greenbelt status at the time of purchase.

The assessor's representative countered that Ms. Lovell's 1992 greenbelt application had in fact been filed and recorded. The recordation of the 2001 deed made the assessor's office aware of potential future owners of the property, but the assessor's office was unable to ascertain when Ms. Lovell would pass away and full ownership transfer to her relatives. This was why the four relatives were never required to apply for greenbelt status and why greenbelt status continued uninterrupted, according to the assessor's representative.

The Commission finds that the taxpayer's arguments erroneously presuppose that rollback taxes are merely a personal liability arising automatically upon the occurrence of the disqualifying event. There is indeed personal liability for rollback taxes, but the liability arises when the assessor discovers the liability and notifies the tax collecting official and the liable party.² The rollback liability also gives rise to a lien. Tennessee Code Annotated § 67-5-1008(d)(3). That the assessor may have been unaware of circumstances that might have triggered rollback liability earlier, or to a prior owner, does not relieve the current owner of liability occasioned by the current owner's change of use or other disqualification. Purchasers are charged with knowledge of a property's current greenbelt status based on the recorded application without regard to their actual knowledge.

ORDER

By reason of the foregoing, it is ORDERED, that the initial decision and order of the administrative judge is affirmed. This order is subject to:

1. Reconsideration by the Commission, in the Commission's discretion. Reconsideration must be requested in writing, stating specific grounds for relief and the request must be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.
2. Review by the State Board of Equalization, in the Board's discretion. This review must be requested in writing, state specific grounds for relief, and be filed with the Executive Secretary of the State Board within thirty (30) days from the date of this order.

² "When the assessor determines there is liability for rollback taxes, the assessor shall give written notice to the tax collecting official identifying the basis of the rollback taxes and the person the assessor finds to be responsible for payment, and the assessor shall provide a copy of the notice to the responsible person." Tenn. Code Ann. §67-5-1008 (d)(3).

3. Review by the Chancery Court of Davidson County or other venue as provided by law. A petition must be filed within sixty (60) days from the date of the official assessment certificate which will be issued when this matter has become final.

Requests for stay of effectiveness will not be accepted.

DATED: Oct. 31, 2007

ATTEST:

Kelley J. Jumper
Executive Secretary

John Stoltz
Presiding member

cc: Mr. John C. Cavett, Jr., Esq.
Mr. Bobby G. Runyon
Mr. Bill Bennett, Assessor